

REMARKS

No claims are amended. Claims 1-21 remain pending. Reconsideration and allowance of the claims is requested in light of the following remarks.

Claim Rejections – 35 USC §103

Claims 1-21 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent Publication No. 2003/0128668 to Yavatkar (“Yavatkar”) in view of Software API Framework Implementation Agreement, Revision 1.0, dated 13 September 2002, edited by David M. Putzolu (“Putzolu”). The applicant respectfully disagrees.

Regarding claim 1, it was recognized at page 3 of the office action that Yavatkar fails to disclose the virtual interface as recited in the claim. It is alleged, however, that Putzolu’s packet handler disclosed in 3.2.1 and 3.2.2 “*inherently* convert[s] the protocol of the packets for compatibility with one running on the control processor if necessary” (emphasis added).

To the contrary, section 3.2.1 indicates only that the Control Plane does its work using Protocols that operate between nodes, and that in the case of IP packet processing, four broad categories of protocols exist. Putzolu’s packet handler, which is alleged to be the recited virtual interface, is not even mentioned in section 3.2.1. Furthermore, section 3.2.2 does not teach or suggest that Putzolu’s packet handler is capable of “[converting the packet] to a compatible format for the operating system” as recited in claim 1. Indeed, according to Putzolu, clients of the packet handler include socket “device” drivers that support the TCP/IP stack in the operating system’s kernel (section 3.2.2), which would tend to indicate that no conversion is necessary.

Furthermore, in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. MPEP 2112(IV), emphasis in original. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP 2112(IV), emphasis in original. None of the evidence presented in the office action amount to a basis in fact and/or technical reasoning that reasonably supports the determination that the features of the recited virtual interface necessarily flow from the teachings of Putzolu.

For the above reasons, neither Yavatkar nor Putzolu teach or suggest the virtual interface recited in claim 1, and the combination therefore fails to establish *prima facie* obviousness for claim 1. MPEP 2143.03. Claims 2-8 are allowable over the combination of

Yavatkar and Putzolu at least because any claim that depends from a nonobvious independent claim is also nonobvious. MPEP 2143.03.

Independent claims 9 and 16 were rejected under the same rationale that was used for claim 1. Thus, for the same reasons presented above for claim 1, the combination of Yavatkar and Putzolu fails to establish *prima facie* obviousness for claims 9 and 16. Claims 10-15 and 17-21 are allowable over the combination of Yavatkar and Putzolu at least because any claim that depends from a nonobvious independent claim is also nonobvious.

Conclusion

For the foregoing reasons, reconsideration and allowance of the pending claims is requested. Please telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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